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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,788	01/16/2004	Thomas T. Yamashita	YAMA-009	8159
24353 7590 10/09/2007 BOZICEVIC, FIELD & FRANCIS LLP 1900 UNIVERSITY AVENUE SUITE 200 EAST PALO ALTO, CA 94303			EXAMINER LEVY, NEIL S	
			ART UNIT 1615	PAPER NUMBER
			MAIL DATE 10/09/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/759,788	Applicant(s) YAMASHITA, THOMAS T.	
	Examiner NEIL LEVY	Art Unit 1615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-8,10,11,13,14 and 16-37 is/are pending in the application.
- 4a) Of the above claim(s) 21-37 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-8,10,11,13,14 16-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1,3-8,10,11,13,14 and 16-37 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Election/Restrictions

Claims 21-37 stand withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention & species, there being no allowable generic or linking claim. Election was made without traverse in the reply filed on 1/23/06.

Claim Rejections - 35 USC § 112

All claims stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

NON- NATURALLY OCCURRING is contrary to accepted meaning, at least for botanicals- please list non-naturally occurring botanicals & antibiotics, carbamates, imides, strobilurines & so on or drop these terms, absent any identification in the specification of what applicant intends by this negative terminology. It is unclear what is being excluded, as the meets & bounds of desired protection.

Claim Rejections - 35 USC § 102

Claims 1,3-5, 7,8,11, 17 –19 stand rejected under 35 U.S.C. 102(b) as being anticipated by Spengler et al -US006669879B1

Spengler provides examples of the instant actives, not the elected Na aluminofluorides, but those such as azoles @ 0.1-95%, with sucrose @ 0.02-50%, and the other

ingredients , N sources, micro nutrients & cofactors within the variety of additional components Spengler adds to the active. The instant language is in the open COMPRISING guise , & thus there is no requirement for limitation as argued for by applicant.

Claim Rejections - 35 USC § 103

Claims 1,3-8,10,11,13,14,16-20 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Spengler et al 6669879 and McCoy-5453277.

Again, language is comprising, thus applicants arguments for limit to claim 1 components are not persuasive. Neither is argument for non-analogous art; Spengler @ line 64,65 of column 5, & lines 17,18 of column 6 specifically address "- crop treatment, insecticides-". Both Spengler & McCoy are directed to solid forms for crop treatment, insecticides; they are known to the agronomic pesticide applicator as applicable references.

Claims 1,3-8,10,11,13,14, & 16-20 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Summers-3514516 in view of Beaty-5634959 , Kinnersley et al 4976767, Wahlberg-3231365, Van Barneveld US006254654B1

The rejection over Summers also is not required to include applicant's argued for limitations of components

Response to Arguments

Applicant's arguments filed 7/03/07 have been fully considered but they are not persuasive. Applicant argues the prior art MUST be limited to the components a,b,c,d,& e of claim 1 , as is instantly claimed. Examiner finds these components only need to be present & as the compounds the descriptive terminology- non-naturally occurring , assimilable carbon-skeleton , macronutrient---requires, but a host of other components are ALSO permitted in the open guise of the instant composition claim language. No claim is allowed.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

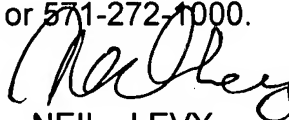
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to NEIL LEVY whose telephone number is 571-272-0619. The examiner can normally be reached on Tuesday-Friday, 7 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MICHAEL WOODWARD can be reached on 571-272-8373. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



NEIL LEVY
Primary Examiner
Art Unit 1615
